IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 16937 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

AMITKUMAR MANOJBHAI DESAI

Versus

REGIONAL PASSPORT OFFICER

Appearance:

1. Special Civil Application No. 16937 of 2003

MR NK MAJMUDAR for Petitioner No. 1

MR DN PATEL WITH MR KRUNAL PANDYA for Respondent.

CORAM : HON'BLE MR.JUSTICE C.K.BUCH

Date of decision: 24/12/2003

ORAL JUDGEMENT

1. Rule. Mr. Krunal Pandya learned counsel

appearing for Mr. D.N. Patel learned Sr. Central Government Standing Counsel waives formal service of Rule on behalf of respondent.

2. With the consent of the learned counsel for the parties, this matter is taken up for final hearing today.

3. By means of filing this petition the petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India and has prayed for appropriate writ, direction or order in the terms of para 8 (B) of the petition.

4. I would like to quote the relevant prayer made in para 8 (B) of the petition.

> "THIS HONOURABLE COURT be pleased to issue appropriate writ and be pleased to direct the respondent - Regional Passport Authority, to consider and process the Application of the petitioner for correction of the Date of Birth and the Date of Birth may be ordered to be corrected from 18th July, 1984 to 18th August, 1984, relying upon the copy of extract of Birth Register issued by Baroda Municipal Corporation, Baroda, the correct date of birth be entered in the Passport and appropriate direction be issued in this regard to consider the application to correct the said mistake in the Passport of the petitioner immediately within 10 days from the date of order"

5. It is contended that the petitioner had applied for passport which was issued by the respondent authority on 15-9-2003 bearing No. E 6491587. In the said passport the date of birth of the petitioner is mentioned as 18-07-1984.

6. According to the petitioner, his real date of birth is 18-08-1984. In fact, he is in possession of the certificate issued by the authority, which bears the correct birth date of the petitioner as 18-8-1984. The error has been cropped up because of the date reflected in the school leaving certificate. The birth date of the petitioner mentioned in the school leaving certificate is incorrect and therefore, the passport authorities, according to the petitioner, may be directed to issue fresh passport mentioning the date of birth as per the certificate issued by the authority from the Register maintained under the statute, viz. Birth & Death

Registration Act, 1969 and the Rules framed thereunder.

7. In the circumstances, the petitioner is directed to make representation before the passport authorities with relevant documents requesting the passport authorities to issue new passport mentioning the correct date of birth of the petitioner.

8. On receipt of such representation from the petitioner, the passport authorities are directed to decide the said representation, as expeditiously as possible, in accordance with law and issue fresh passport to the petitioner showing the correct date of birth of the petitioner, as mentioned in the certificate issued by the authority under Birth & Death Registration Act, 1969.

9. Before parting, I would like to mention here that this contingency has arisen because of the fault committed by the petitioner and therefore, the petitioner is liable to pay cost to the respondent authorities which is quantified at Rs.5,000/- (Rupees Five Thousand only). The petitioner is directed to deposit the cost of Rs.5,000/- (Rupees Five Thousand only) with the passport authorities.

10. Accordingly, the petition is allowed. Rule is made absolute to the aforesaid extent. D.S. is permitted.

(C.K. Buch, J.)

/JVSatwara/